

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 32

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YUTAKA FUKUYAMA, SHINJI ITO,
and ATSUSHI TAKAMATSU

Appeal No. 1999-0008
Application No. 08/625,834

ON BRIEF

Before KRASS, JERRY SMITH, and LALL, Administrative Patent Judges.

LALL, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 13 and 16-18. Claims 1-12 and 14-15 have been cancelled.

The disclosed invention relates to a recording and/or reproducing apparatus for an optical or magneto-optical recording medium housed within a disc cartridge. The apparatus

includes a casing having an opening or disc inserting slit by which the disc cartridge is introduced into or ejected from the casing. A lid is provided over the slit. The apparatus includes a first chassis which is affixed to the casing, and a second chassis which is connected to the first chassis via dampers. A disc drive loading unit is arranged on the second chassis. An opening and closing member is pivotally coupled at its mid-portion to the second chassis at a pivot. The distal end of the opening and closing member protrudes forwardly from the second chassis to operatively interact with a transmission member. The opening and closing member includes a profiling pin which engages a cam groove of a cam gear. As the cam gear rotates due to a disc loading operation, the opening and closing member follows the cam operation due to the profiling pin and rotates about the pivot. This operation is illustrated in Figures 28-30. Thus, the opening of the lid is controlled by the mechanics of the disc closing operation, and not simply by sliding contact with a disc. A further illustration of the invention can be achieved from the following claim.

13. A recording and/or reproducing apparatus for a recording disc comprising:

a casing;

a first chassis affixed to the casing and having portions extending within the casing which are spaced apart from the casing;

a second chassis floatingly supported relative to said portions of the first chassis via dampers and housed within said casing;

a disc loading unit and a disc drive unit arranged on said second chassis;

a disc inserting slit formed in an outer wall of said casing, the disc inserting slit being configured to receive a recording medium for loading said recording medium on said disc drive unit;

a lid pivotally supported by said casing at a first pivot for opening and closing said disc inserting slit;

a transmission member, movably supported relative to said casing and mechanically coupled to said lid, said transmission member pivotally movable for opening and closing said lid; and

an opening and closing member movably supported by said second chassis, said opening and closing member being moved in operative association with the loading operation by said disc loading unit, said opening and closing member being selectively coupled to said transmission member causing said transmission member to be moved when the opening and closing member is moved;

said opening and closing member being mechanically coupled to said transmission member for maintaining said lid in an opened state, via said transmission member, only during a preset interval of loading said recording medium into said disc loading unit, said opening and closing member otherwise being mechanically decoupled from said transmission member.

The examiner relies on the following references:

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Miyamoto	4,642,714	Feb. 10, 1987
Aizawa	5,050,022	Sep. 17, 1991
Odawara et al. (Odawara)	5,062,099	Oct. 29, 1991

Claims 13 and 16 to 18 stand rejected under 35 U.S.C § 103 as being unpatentable over Miyamoto and Odawara.

Claims 13 and 16 to 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Aizawa and Odawara.

Rather than repeat the arguments of appellants and the examiner, we make references to the briefs¹ and the answer for the respective details thereof.

OPINION

We have considered the rejections advanced by the examiner in the supporting arguments. We have, likewise, reviewed the appellants' arguments set forth in the briefs.

We Reverse.

In our analysis, we are guided by the general proposition that in an appeal involving a rejection under 35 U.S.C. § 103, an examiner is under a burden to make out a prima facie case of obviousness. If that burden is met, the burden of going forward

¹ A reply brief was filed as paper number 27 on June 19, 1998. The examiner noted its entry, see paper number 30, but did not file any further response.

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then shifts to the applicant to overcome the prima facie case with argument and/or evidence. Obviousness, is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). We are further guided by the precedence of our reviewing court that the limitations from the disclosure are not to be imported into the claims. In re Lundberg, 244 F.2d 543, 113 USPQ 530 (CCPA 1957); In re Queener, 796 F.2d 461, 230 USPQ 438 (Fed. Cir. 1986). We also note that the arguments not made separately for any individual claim or claims are considered waived. See 37 CFR § 1.192(a) and (c). In re Baxter Travenol Labs., 952 F.2d 388, 391, 21 USPQ2d 1281, 1285 (Fed. Cir. 1991) ("It is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for nonobviousness distinctions over the prior art."); In re Wiechert, 370 F.2d 927, 936, 152 USPQ 247, 254 (CCPA 1967) ("This court has uniformly followed the sound rule that an issue raised

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below which is not argued in that court, even of it has been properly brought here by reason of appeal is regarded as abandoned and will not be considered. It is our function as a court to decide disputed issues, not to create them.").

The examiner rejects the claims on appeal on two separate combinations. We will consider each combination separately.

Miyamoto and Odawara

The examiner rejects claims 13 and 16 to 18 under this combination at pages 4 and 5 of the examiner's answer.

Appellants argue, brief, at page 5, that:

[T]he examiner acknowledges that the references do not teach or suggest the opening and closing member being mechanically coupled during a preset disc loading interval, but being mechanically decoupled during other intervals. Miyamoto clearly has operative members mechanically coupled to the lid at all times, not decoupled during other than the loading operation as recited in claim 13... However, the Examiner does not consider this a patentable difference.

The examiner responds, answer at page 10, that:

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This difference has been previously acknowledged by the Examiner, however, appellants have still not shown unobvious or unexpected results by having this mechanical decoupling. Lacking this showing, it is maintained that this feature is not considered to be a patentable difference over the art of record.

We disagree with the position taken by the examiner. It is the burden of the examiner to establish a prima facie case by showing the claimed features in the prior art, or by a logical line of reasoning. The examiner has not met this burden.

Moreover, we also agree with appellants that, brief at page 5,

Miyamoto does not teach or suggest a casing having a first chassis affixed thereto and portions extending within the casing and spaced apart from the casing, and a second chassis floatingly supported by the first chassis via dampers.

The examiner has not identified what the examiner considers as a first chassis and a second chassis in a casing, and how the second chassis is connected to the first chassis via dampers. Odawara does show dampers, such as 73 in Figures 2 and 8, which

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insulate loading mechanism 7 from vibrations to casing 3 (column 3 lines 17-27). However, neither Miyamoto nor Odawara, alone or in combination, have shown the recited structure of the first chassis and the second chassis in the casing. Therefore, we are of the opinion that the examiner has not made out a prima facie case of rejecting claims 13 and 16 to 18 over Miyamoto and Odawara.

Aizawa and Odawara

The examiner rejects claims 13 and 16-18 under this combination at pages 5 to 7 of the examiner's answer. Appellants argue, brief at pages 7 and 8, that this combination suffers from the same deficiencies as noted above regarding the combination of Miyamoto and Odawara. For the same rationale as above, we agree with appellants that the examiner has not established a prima facie case of obviousness in rejecting these claims. Therefore, we do not sustain the obviousness rejection of claims 13 and 16-18 under this combination.

In conclusion, the decision of the examiner rejecting claims 13 and 16-18 under 35 U.S.C. § 103 is reversed.

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REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
JERRY SMITH)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
PARSHOTAM S. LALL)	
Administrative Patent Judge)	

PSL/lp

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JUDGE LALL

APPEAL NO. 1999-0008

APPLICATION NO. 08/625,834

APJ LALL

APJ JERRY SMITH

APJ KRASS

DECISION: **REVERSED**

PREPARED: Jul 19, 2002

OB/HD

PALM

ACTS 2

DISK (FOIA)

REPORT

BOOK